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Guide to Designated Port Area Uses

Water Dependent Industrial uses - allowed by-right

310 CMR 9.12 (2) (b)

The Department shall find to be water-dependent-industrial the following uses:

1. **marine terminals** and related facilities for the transfer between ship and shore, and the storage of, bulk materials or other goods transported in waterborne commerce;
2. facilities associated with **commercial passenger vessel operations**;
3. **manufacturing facilities** relying primarily on the bulk receipt or shipment of goods by waterborne transportation;
4. **commercial fishing** and fish processing facilities;
5. **boatyards**, dry docks, and other facilities related to the construction, serving, maintenance, repair, or storage of vessels or other marine structures;
6. **facilities for tug boats, barges, dredges**, or other vessels engaged in port operations or marine construction;
7. any water-dependent use listed in 310 CMR 9.12(2)(a)9. through 14., provided the Department determines such use to be associated with the operation of a Designated Port Area;
 - [9. **dredging** for navigation channels, boat basins, and other water-dependent purposes, and subaqueous disposal of the dredged materials below the low water mark;
 10. **navigation aids**, marine police and fire stations, and other facilities which promote public safety and law enforcement on the waterways;
 11. **shore protection structures**, such as seawalls, bulkheads, revetments, dikes, breakwaters, and any associated fill which are necessary either to protect an existing structure from natural erosion or accretion, or to protect, construct, or expand a water-dependent use;
 12. **flood, water level, or tidal control facilities**;
 13. **discharge pipes**, outfalls, tunnels, and diffuser systems for conveyance of stormwater, wastewater, or other effluents to a receiving waterway;
 14. facilities and activities undertaken or required by a public agency for purposes of **decontamination, capping, or disposal of polluted aquatic sediments**;]
8. **hydroelectric power** generating facilities;
9. **Offshore renewable energy infrastructure** facilities in the Commonwealth, including ocean wave energy facilities, ocean current energy facilities, tidal energy facilities, any ancillary facility thereto or any similar facility that obtains its energy from the ocean;
10. **infrastructure facilities** used to deliver electricity, natural gas or telecommunications

services to the public from an offshore facility located outside the Commonwealth; and
11. **other industrial uses or infrastructure facilities which cannot reasonably be located at an inland site** as determined in accordance with 310 CMR 9.12(2)(c) or (d).
(c) In the case of industrial and infrastructure facilities not listed in 310 CMR 9.12(2)(b), which are **dependent on marine transportation or require large volumes of water to be withdrawn from or discharged to a waterway for cooling, process, or treatment purposes**, the Department shall act in accordance with the following provisions...”

Supporting DPA uses – allowed on 50% of property

310 CMR 9.02 Definitions

Supporting DPA Use means an industrial or commercial use in a Designated Port Area that provides water-dependent industrial use in the DPA with **direct economic or operational support**, to an extent that adequately compensates for the reduced amount of tidelands on the project site that will be available for water-dependent industrial use during the term of the license. The type, location, scale, duration, operation, and other relevant aspects of the industrial or commercial use **must be compatible with activities characteristic of a working waterfront** and its backlands, in order to preserve in the long run the predominantly industrial character of the DPA and its viability for maritime development. In determining whether an industrial or commercial use qualifies as a Supporting DPA Use, the Department shall act in accordance with the following provisions as well as all applicable provisions of a DPA Master Plan. In the case of commercial uses, any use may be determined to be compatible with the DPA except where the inherent nature of the use gives rise to severe conflict with port operations or excessive consumption of port space, either directly or indirectly (*e.g.* as a result of collateral development activity). Accordingly, new or expanded uses that shall not be determined to be a Supporting DPA Use include, but are not limited to, transient group quarters such as hotels/motels, nursing homes, and hospitals; recreational boating facilities; amusement parks and other major entertainment or sports complexes; and new buildings devoted predominantly to office use. Conversely, uses that shall be presumed compatible with the DPA are small business uses that are adaptable to the upper floors of existing buildings, to minor infill parcels, and to other interstitial spaces not likely (in their own right or in combination with other nearby spaces) to be of primary importance in attracting maritime development to the DPA. Typical of such uses are storefront retail and service facilities; shops operated by self-employed tradepersons; eating and drinking establishments with limited seating; and small-scale administrative offices. Unless otherwise provided in a DPA Master Plan, the amount of filled tidelands occupied by Supporting DPA Uses and any accessory uses thereto shall not exceed 25% of the area of the project site (excluding tidelands seaward of the project shoreline), so that the remainder of the project site will continue to be available exclusively for water-dependent industrial or temporary use. Temporary uses may be licensed only if marketing efforts have failed to identify any prospective water-dependent industrial tenant, and if the license is conditioned to require further solicitation of such tenancy upon expiration of the license term.

Temporary Use means warehousing, trucking, parking, and other industrial and transportation uses which occupy vacant space or facilities in a Designated Port Area, for a maximum term of ten years as specified in 310 CMR 9.15(1)(d), and without significant structural alteration of such space or facilities.

Full regulations may be found at: <http://www.lawlib.state.ma.us/source/mass/cmr/310cmr.html>